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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,599	07/01/2003	David Michael Miller	MS1-1527US	6158
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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER OSMAN, RAMY M	
			ART UNIT 2157	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/611,599

**Applicant(s)**

MILLER ET AL.

**Examiner**

RAMY M. OSMAN

**Art Unit**

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                       |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is responsive to amendment filed on November 20, 2007, where applicant amended claims 1,10,16. Claims 1-18,20-22 are pending.

### ***Drawings***

2. After further review, the drawings are objected to because they fail to show the “YES” and “NO” Branches of Figure 4, as they are mentioned in the Specification in pages 15-16, regarding step 404 of Figure 4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 2157

***Specification***

3. The disclosure is objected to because of the following informalities: Paragraphs 1 and 25 (in Patent Publication No 2005/0004993) are both missing Patent Application Serial Numbers. Appropriate correction is required.

***Response to Arguments***

4. Applicant's amendments filed on 11/20/2007 and Applicants arguments in view of said amendments have been fully considered but are not persuasive.

5. Applicant argues that Lango does not teach “generating a hash value based on object data, wherein the object data includes metadata descriptive of the object data wherein the metadata includes a type field indicating an object type which has been selected by a user of a local computer to uniquely represent the user during future sessions of instant messaging”.

*In reply*, Examiner has admitted that Lango fails to explicitly teach “uniquely represent the user during future sessions of instant messaging”. However, regarding the limitation “generating a hash value based on object data, wherein the object data includes metadata descriptive of the object data”, Lango does disclose this where an object identifier is a generated hash value of an object name which is a concatenation of descriptive information (i.e. metadata) (see column 16 lines 1-18 & 27-29). And regarding the limitation “wherein the metadata includes a type field indicating an object type which has been selected by a user of a local computer”, Lango also discloses this where the descriptive information includes information indicating media type, requested by a user (column 15 lines 26-34 and column 16 lines 1-18).

Art Unit: 2157

Applicant has failed to specifically mention how Lango is different from the mentioned limitations.

6. Regarding the secondary reference in the 103 rejection, Applicant argues that Gokturk “at the very least” does not teach that the avatars were “previously selected” by a user of a local computer.

*In reply*, it was the primary reference Lango which was relied upon to teach that objects were “selected” by a user. But it was mentioned that Lango failed to teach that these objects are avatars. Gokturk has been relied upon for teaching that it would be obvious that the objects are avatars in an IM communication. See detailed rejection below.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Claim Rejections - 35 USC § 101***

8. Claims 10-15 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 10 recites “*instructions for performing a method comprising: ...*”. “Instructions” in-and-of themselves have no ability to perform anything. The instructions must be embodied where they are in fact executed by some type of processing

Art Unit: 2157

device and where the instructions enable the device to perform the actions (not the instructions perform the actions).

9. Claims 16-18,20-22 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 16 recites “*A system... comprising: a data object...; and an object store...*”. A “data object” is simply a data structure (i.e. software), and paragraph 33 of Applicants specification mentions that “data object” and “object store” are classes (i.e. data structure). Data structures do not fall within any of the statutory categories. They are not directed to a process since they are not a series of steps. The claim is also not directed to a machine since data structures are not a device(s), nor directed to a manufacture since data structures are not produced from raw materials. And it is also clearly not directed to a composition of matter and is therefore nonstatutory. **See MPEP Chapter 2106.01 Section I.**

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 1-7,9-14,16,17,20-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Lango et al (US Patent No 6,813,690) in view of Gokturk et al (US Patent No 7,203,356).**

12. ***In reference to independent claim 1***, Lango teaches a method for communicating object data comprising:

Art Unit: 2157

generating a hash value based on object data, wherein the object data includes metadata descriptive of the object data (column 16 lines 1-18 & 27-29, Lango discloses an object identifier is a generated hash value of an object name which is a concatenation of descriptive information (i.e. metadata)), and

wherein the metadata includes a type field indicating an object type which has been previously selected by a user of a local computer (column 15 lines 26-34 and column 16 lines 1-18, Lango discloses that the descriptive information includes information indicating media type, requested by a user);

storing the object data at a storage location (column 14 lines 4-13, Lango discloses storing the objects in a cache),

wherein the object data at the storage location is represented by an object name having the hash value and a location identifier identifying the storage location (column 15 lines 26-30 and column 16 lines 21-29, Lango discloses the object identifier (i.e. name) including URL data (i.e. location data) and is a hashed value of an object name); and

returning the object name having the hash value and the location identifier identifying the storage location to the user (column 15 lines 43-45, Lango discloses communicating object numbers (i.e. object names) to a client),

the object name enabling the user to access the object data including the object type which has been selected by the user (column 16 lines 1-5 & 27-29, Lango discloses that the object numbers are generated into object names the into object identifiers to enable access of an object requested by a user (column 15 lines 22-23)).

Lango is only concerned with a user selecting/requesting a media type object desired by the user (column 14 lines 65-67). Lango fails to explicitly teach wherein the object is an object that is used to uniquely represent the user during future sessions of instant messaging. However, Gokturk teaches an avatar for use in an IM application where the avatars are used for spicing up text in an IM communication that the user is participating in (column 11 lines 63-67). Gokturk discloses that the avatar is referenced as a code word (i.e. object name) in a table, where if that avatar is selected then the table is used to map the code back to the avatar (column 12 lines 15-23). It would have been obvious for one of ordinary skill in the art to modify Lango wherein the object is an object that is used to uniquely represent the user during future sessions of instant messaging as per the teachings of Gokturk for the purpose of spicing up text in an IM communication that the user is participating in.

13. In reference to claim 2, Lango teaches a method as recited in claim 1 further comprising: receiving a request for the object data, the request including the object name; and retrieving the object data from a local cache based on the hash value (column 16 lines 35-50).

14. In reference to claim 3, Lango teaches a method as recited in claim 1 further comprising: receiving a request for the object data, the request including the object name; and in response to receiving the request, retrieving the object data from the location using the location identifier (column 16 lines 51-60).

15. In reference to claim 4, Lango teaches a method as recited in claim 1 further comprising: receiving a request for the object data, the request including the object name (column 15 lines 22-25); and determining whether the requested object data is in a local cache based on the hash value; and if the requested object data is in the local cache, retrieving the object data from the



Art Unit: 2157

local cache, otherwise, retrieving the requested object data from the location identified by the location identifier (column 16 lines 40-60).

16. In reference to claim 5, Lango teaches a method as recited in claim 4 wherein the retrieving the requested object data from the location identified by the location identifier comprises: retrieving the requested object data from network storage (column 16 lines 55-60).

17. In reference to claim 6, Lango teaches a method as recited in claim 4 wherein the retrieving the requested object data from the location identified by the location identifier comprises: retrieving the requested object data from a local file system (column 16 lines 46-50).

18. In reference to claim 7, Lango teaches a method as recited in claim 4 wherein the retrieving the requested object data from the location identified by the location identifier comprises: retrieving the requested object data from a remote file system. (column 16 lines 55-60)

19. In reference to claim 9, Lango teaches a method as recited in claim 7 wherein the retrieving the requested object data from a remote file system comprises: accessing the remote file system via a connection through a switchboard server (column 16 lines 51-60).

20. *In reference to independent claim 10*, Lango teaches a computer-readable medium having stored thereon computer-executable instructions for performing a method comprising:

receiving a name associated with a user on a remote computer (column 16 lines 35-37, Lango discloses a cache hash table receiving an object identifier (i.e. name) which is associated with a user request from a user, column 14 lines 65-67),

Art Unit: 2157

the name including location data and a hash value uniquely associated with a data object, (column 15 lines 26-30 and column 16 lines 21-29, Lango discloses the object identifier (i.e. name) including URL data (i.e. location data) and is a hashed value of an object name)

wherein the data object includes metadata descriptive of the data object (column 16 lines 1-18 & 27-29, Lango discloses that the object identifier is a hash of an object name which is a concatenation of descriptive information (i.e. metadata)),

and wherein the metadata includes a type field indicating an object type which has been previously selected by the user (column 15 lines 26-34 and column 16 lines 1-18, Lango discloses that the descriptive information includes information indicating media type)

retrieving the data object from one of a local cache based on the hash value or a location identified by the location data (column 16 lines 40-60, Lango discloses retrieving an object either from a local cache or from a media server (i.e. location)),

Lango is only concerned with a user selecting/requesting a media type object desired by the user (column 14 lines 65-67). Lango fails to explicitly teach wherein the object is an object that is used to uniquely represent the user during future sessions of instant messaging. However, Gokturk teaches an avatar for use in an IM application where the avatars are used for spicing up text in an IM communication that the user is participating in (column 11 lines 63-67). Gokturk discloses that the avatar is referenced as a code word (i.e. object name) in a table, where if that avatar is selected then the table is used to map the code back to the avatar (column 12 lines 15-23). It would have been obvious for one of ordinary skill in the art to modify Lango wherein the object is an object that is used to uniquely represent the user during future sessions of instant

Art Unit: 2157

messaging as per the teachings of Gokturk for the purpose of spicing up text in an IM communication that the user is participating in.

21. In reference to claim 11, Lango teaches the computer readable medium as recited in claim 10 further comprising: receiving a request for the object data, the request including the object name (column 15 lines 22-25); and determining whether the requested object data is in a local cache based on the hash value; and if the requested object data is in the local cache, retrieving the object data from the local cache, otherwise, retrieving the requested object data from the location identified by the location identifier (column 16 lines 40-60).

22. In reference to claim 12, Lango teaches the computer readable medium as recited in claim 11 wherein the retrieving the requested object data from the location identified by the location identifier comprises: retrieving the requested object data from a remote file system. (column 16 lines 55-60)

23. In reference to claim 13, Lango teaches the computer readable medium as recited in claim 11 wherein the retrieving the requested object data from the location identified by the location identifier comprises: retrieving the requested object data from a local file system (column 16 lines 46-50).

24. In reference to claim 14, Lango teaches the computer readable medium as recited in claim 11 wherein the retrieving the requested object data from the location identified by the location identifier comprises: retrieving the requested object data from network storage (column 16 lines 55-60).

Art Unit: 2157

25. *In reference to independent claim 16*, this is a system claim that corresponds to the computer readable medium claim of claim 10. Therefore, claim 16 is rejected based upon the same rationale as given for claim 10 above.

26. In reference to claim 17, Lango teaches a system as recited in claim 16 wherein the object name further comprises a creator identifier identifying a creator of the data object (column 15 lines 31-35).

27. In reference to claim 20, Lango teaches a system as recited in claim 19 wherein the metadata comprises: a friendly name field; a type field indicating a type of data object; and a hash value based on the metadata (column 16 lines 27-29).

28. In reference to claim 21, Lango teaches a system as recited in claim 16 wherein the location identifier comprises a uniform resource locator (URL) (column 15 lines 22-28).

29. In reference to claim 22, Lango teaches a system as recited in claim 16 wherein the location identifier comprises a uniform resource identifier (URI) (column 15 lines 22-28).

30. **Claims 8,15,18 rejected under 35 U.S.C. 103(a) as being unpatentable over Lango et al (US Patent No 6,813,690) in view of Gokturk et al (US Patent No 7,203,356) in further view of Xu et al (US Patent Publication No 2004/0098502).**

31. In reference to claim 8, Lango teaches a method as recited in claim 7 wherein the retrieving the requested object data from a remote file system. Lango fails to explicitly teach accessing the remote file system via a peer-to-peer connection. However, Xu teaches that peer to peer systems are well known in the art for facilitating the search of requested objects due to their good network qualities of scalability and reliability (Xu, ¶s 5 & 6). It would have been obvious

Art Unit: 2157

for one of ordinary skill in the art to modify Lango by accessing the remote file system via a peer-to-peer connection as per the teachings of Xu for the purpose of facilitating the search for requested objects among peers in a peer to peer system due to its good network qualities of scalability and reliability.

32. In reference to claim 15, this is a computer readable medium claim that corresponds to the method claim of claim 8. Therefore, claim 15 is rejected based upon the same rationale as given for claim 8 above.

33. In reference to claim 18, this is a system claim that corresponds to the method claim of claim 8. Therefore, claim 18 is rejected based upon the same rationale as given for claim 8 above.

### *Conclusion*

34. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

Art Unit: 2157

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO  
February 27, 2008

